

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Unlicensed Activity of:

No. 06-BD 072 -SBD

3 **SILVERADO FINANCIAL, INC. AND**  
4 **JOHN E. HARTMAN, PRESIDENT**  
5 5976 W. LAS POSITAS, SUITE 116  
6 PLEASANTON, CA 94588

**ORDER TO CEASE AND DESIST;  
NOTICE OF OPPORTUNITY FOR  
HEARING; CONSENT TO ENTRY OF  
ORDER**

Respondents.

7 The Superintendent of Financial Institutions for the State of Arizona (the "Superintendent"),  
8 makes the following Findings of Fact and Conclusions of Law and enters the following Order  
9 pursuant to Arizona Revised Statutes ("A.R.S.") § 6-137.

10 Pursuant to Titles 6 and 41 of the Arizona Revised Statutes and Title 20, Chapter 4 of the  
11 Arizona Administrative Code ("A.A.C."), Respondents are hereby notified that they are entitled to a  
12 hearing to contest the allegations set forth in this Order. The Request for Hearing shall be filed with  
13 the Arizona Department of Financial Institutions (the "Department") pursuant to A.R.S. § 6-137(D)  
14 within **thirty (30) days** of service of this Order and shall identify with specificity the action or order  
15 for which review is sought in accord with A.R.S. § 41-1092.03(B).

16 Pursuant to A.R.S. §§ 41-1092.01(D) and 41-1092.03(B), any person may appear on his or  
17 her own behalf or by counsel. If Respondents are represented by counsel, the information required  
18 by A.R.S. § 41-1092.03(B) shall be included in the Request for Hearing. Upon the filing of a  
19 Request for Hearing, the Department shall issue a Notice of Hearing scheduling the matter for  
20 hearing in accordance with A.R.S. § 41-1092.05. Persons with disabilities may request reasonable  
21 accommodations such as interpreters, alternative formats, or assistance with physical accessibility.  
22 Requests for special accommodations must be made as early as possible to allow time to arrange the  
23 accommodations. If accommodations are required, call the Office of Administrative Hearings at  
24 (602) 542-9826.

25 If Respondents request a hearing, a request may also be made for an Informal Settlement  
26 Conference by filing a written request no later than **twenty (20) days** before the scheduled hearing.

1 The conference will be held within **fifteen (15) days** after receipt of your request. If an Informal  
2 Settlement Conference is requested, a person with the authority to act on behalf of the Department  
3 will be present (the "Department Representative"). Please note that in requesting an Informal  
4 Settlement Conference, Respondents waive any right to object to the participation of the Department  
5 Representative in the final administrative decision of this matter, if it is not settled. In addition, any  
6 written or oral statement made by Respondents at such informal settlement conference, including  
7 written documentation created or expressed solely for purposes of settlement negotiations, are  
8 inadmissible in any subsequent administrative hearing. (See A.R.S. § 41-1092.06 for rules regarding  
9 informal settlement conferences.) Conversely, any written or oral statement made by Respondent[s]  
10 outside an Informal Settlement Conference is not barred from being admitted by the Department in  
11 any subsequent hearing.

12 If Respondents do not request a hearing to contest the allegations set forth below, or if after  
13 hearing the Superintendent affirms the following Findings of Fact and Conclusions of Law, the  
14 Superintendent may affirm the Order commanding Respondents to cease and desist their illegal  
15 actions and to take affirmative action to correct the conditions created by the violative conduct  
16 pursuant to A.R.S. § 6-137 and to pay a civil money penalty pursuant to A.R.S. § 6-132.

#### 17 **FINDINGS OF FACT**

18 1. Respondent Silverado Financial, Inc. ("Silverado Financial") is a Nevada corporation,  
19 headquartered in Pleasanton, California, that is not and was not at any time material herein,  
20 authorized to transact business in Arizona as a mortgage broker within the meaning of A.R.S.  
21 § 6-901 *et seq.* The nature of Silverado Financial's business is that of a mortgage broker within the  
22 meaning of A.R.S. § 6-901(6).

23 2. Respondent John E. Hartman ("Mr. Hartman") is the president of Silverado Financial.  
24 Mr. Hartman is not and was not at any time material herein authorized to transact business in  
25 Arizona as a mortgage broker within the meaning of A.R.S. § 6-901 *et seq.*

26 ...

1           3.       Neither Silverado Financial nor Mr. Hartman is exempt from licensure as a mortgage  
2 broker within the meaning of A.R.S. § 6-902.

3           4.       On June 28, 2005, an employee of Silverado Financial filed a complaint with the  
4 Department, stating that Silverado Financial failed to pay commissions due to her pursuant to a  
5 signed employment contract. The employee included in the complaint package nine (9) loan  
6 solicitation letters sent by Silverado Financial's Phoenix office to prospective Arizona borrowers.  
7 The letters provide the addressees with a Phoenix telephone number and disclose that Silverado  
8 Financial operated in Phoenix for one year. The complaint also contains copies of several credit  
9 reports that Silverado Financial ran on Arizona applicants and dozens of lead sheets that Silverado  
10 Financial used to solicit Arizona residents for mortgage loan business. Finally, the complainant  
11 included a copy of her employment agreement that contains the formula that Silverado Financial will  
12 use to compute her commissions, income, and incentives for originating mortgage loans from  
13 Silverado Financial's North Phoenix branch office.

14           5.       On August 12, 2005, the Department sent a letter to Silverado Financial stating the  
15 Department had reason to believe that Silverado Financial was operating in Arizona without the  
16 benefit of a mortgage broker license, and gave Silverado Financial an opportunity to respond by  
17 August 26, 2005.

18           6.       On August 22, 2005, Silverado Financial replied to the Department by stating that  
19 Silverado Financial is in the process of finalizing their Arizona mortgage banking license application  
20 and all requisite paperwork. Silverado Financial also stated that they have Cooperation Agreements  
21 with Dynasty Mortgage and American Mortgage Specialists to process and close their mortgage  
22 loans. To date, the Department's records do not reflect that Silverado Financial has requested an  
23 application for either a mortgage broker or mortgage banker license from the Department.

24 ...

25 ...

26 ...

1 CONCLUSIONS OF LAW

2 1. Pursuant to A.R.S. § 6-901 *et seq.*, the Superintendent is charged with the duty to  
3 regulate all persons engaged in the mortgage broker business and with the enforcement of statutes,  
4 rules and regulations relating to mortgage brokers.

5 2. The conduct of Silverado Financial and Mr. Hartman, as alleged above, constitutes  
6 the conduct of a mortgage broker in the State of Arizona without having first applied for and  
7 obtained a mortgage broker license, in violation of A.R.S. § 6-903(A).

8 3. Neither Silverado Financial nor Mr. Hartman meet any of the exemptions to the  
9 licensing requirements as a mortgage broker as set forth in A.R.S. § 6-902.

10 4. The violations set forth above constitute grounds for (1) the issuance of an order  
11 pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the violative conduct and  
12 to take the appropriate affirmative actions, within a reasonable period of time prescribed by the  
13 Superintendent, to correct the conditions resulting from the unlawful acts, practices, and  
14 transactions, and (2) the imposition of a monetary civil penalty pursuant to A.R.S. § 6-132.

15 ORDER

16 1. Silverado Financial and Mr. Hartman shall immediately stop all mortgage broker  
17 activity in Arizona until such time as Silverado Financial and Mr. Hartman have obtained a  
18 mortgage broker license from the Superintendent as prescribed by A.R.S. §6-903.

19 2. Silverado Financial and Mr. Hartman shall immediately pay to the Department a civil  
20 money penalty in the amount of twenty thousand dollars (\$20,000.00). Silverado Financial and Mr.  
21 Hartman are jointly and severally liable for payment of the civil money penalty.

22 3. The provisions of this Order shall be binding upon Respondents, their employees,  
23 agents and other persons participating in the conduct of the affairs of Respondents.

24 4. This Order shall become effective upon service, and shall remain effective and  
25 enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated  
26 or set aside.

1 SO ORDERED this 24<sup>th</sup> day of January, 2006.

2 Felecia A. Rotellini  
3 Superintendent of Financial Institutions

4 By Bruce Tunell  
5 Bruce Tunell  
6 Deputy Superintendent of Financial Institutions

7 **CONSENT TO ENTRY OF ORDER**

8 1. Respondents acknowledge that they have been served with a copy of the foregoing  
9 Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, have read the  
10 same, are aware of their right to an administrative hearing in this matter, and have waived the same.

11 2. Respondents admit the jurisdiction of the Superintendent and consent to the entry of  
12 the foregoing Findings of Fact, Conclusions of Law, and Order.

13 3. Respondents state that no promise of any kind or nature has been made to induce  
14 them to consent to the entry of this Order, and that they have done so voluntarily.

15 4. Respondents acknowledge that the acceptance of this Agreement by the  
16 Superintendent is solely to settle this matter and does not preclude this Department, any other agency  
17 or officer of this state or subdivision thereof from instituting other proceedings as may be  
18 appropriate now or in the future.

19 5. John E. Hartman, on behalf of Silverado Financial, Inc. and himself, represents that  
20 he is the President, and that, as such, has been authorized by Silverado Financial, Inc. to consent to  
21 the entry of this Order on its behalf.

22 6. Respondents waive all rights to seek judicial review or otherwise to challenge or  
23 contest the validity of this Cease and Desist Order.

24 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

25 By: \_\_\_\_\_  
26 John E. Hartman, President  
Silverado Financial, Inc.

1 ORIGINAL of the foregoing filed this 24th  
2 day of January, 2006, in the office of:

3 Felecia A. Rotellini  
4 Superintendent of Financial Institutions  
5 Arizona Department of Financial Institutions  
6 ATTN: June Beckwith  
7 2910 N. 44th Street, Suite 310  
8 Phoenix, AZ 85018

9 COPY mailed same date to:

10 Douglas E. Lau, Assistant Attorney General  
11 Office of the Attorney General  
12 1275 West Washington  
13 Phoenix, AZ 85007

14 Richard A. Fergus, Manager  
15 Richard Traveler, Senior Examiner  
16 Arizona Department of Financial Institutions  
17 2910 N. 44th Street, Suite 310  
18 Phoenix, AZ 85018


19 AND COPY MAILED SAME DATE by  
20 Certified Mail, Return Receipt Requested, to:

21 John E. Hartman, President  
22 Silverado Financial, Inc.  
23 5976 W. Las Positas, Suite 116  
24 Pleasanton, CA 94588  
25 Respondents

26 Sean Radetich, Chief Operating Officer  
Silverado Financial, Inc.  
5976 W. Las Positas, Suite 116  
Pleasanton, CA 94588

Nevada Agency & Trust Company  
Statutory Agent for Silverado Financial, Inc.  
50 West Liberty Street, Suite 880  
Reno, NV 89501

John E. Hartman, President  
Silverado Financial, Inc.  
10000 N. 31st Avenue, Suite C-202  
Phoenix, AZ 85051

  
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